

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

MARISSA STARK,)
)
 Plaintiff,)
)
v.) Case No. CIV-19-439-JFH-KEW
)
COMMISSIONER OF THE SOCIAL)
SECURITY ADMINISTRATION,)
)
 Defendant.)

FINDINGS AND RECOMMENDATION

This matter comes before this Court on the Stipulated Motion for Attorney Fees to the Equal Access to Justice Act (Docket Entry #18). The Motion was referred to the undersigned by Order of United States District Judge John F. Heil, III, for the entry of Findings and a Recommendation on the disposition of the Motion.

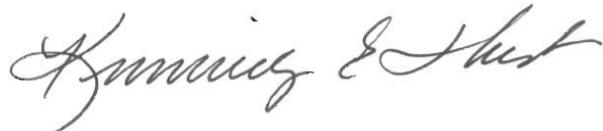
In this action under the Social Security Act, Plaintiff and Defendant, through their attorneys, have moved the Court for an award of attorney's fees to Plaintiff in the amount of \$5,500.00 and the reimbursement of costs to Plaintiff in the amount of \$400.00, pursuant to the provisions of the Equal Access to Justice Act, codified at 28 U.S.C. § 2412(d). The undersigned has reviewed the record in this case and concurs in the requested award of attorney's fees and costs.

IT IS THEREFORE THE RECOMMENDATION OF THIS COURT that the Stipulated Motion for Attorney Fees to the Equal Access to Justice Act (Docket Entry #18) be **GRANTED**, and that the Government be ordered to pay Plaintiff's attorney's fees in the amount of

\$5,500.00 and costs in the amount of \$400.00.

IT IS FURTHER RECOMMENDED that in accordance with the ruling of the Tenth Circuit Court of Appeals, the award shall be made to Plaintiff as the prevailing party and not directly to Plaintiff's counsel. *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007); 28 U.S.C. § 2412(b). In addition, should Plaintiff's counsel ultimately be awarded attorney's fees pursuant to 42 U.S.C. § 406(b)(1), counsel shall refund the smaller amount to Plaintiff. *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986). The parties are given fourteen (14) days from the date of the service of these Findings and Recommendation to file with the Clerk of court any objections with a supporting brief. Failure to object to the Findings and Recommendation within fourteen (14) days will preclude appellate review of this decision by the District Court based on the findings made herein.

IT IS SO ORDERED this 24th day of May, 2021.



KIMBERLY E. WEST
UNITED STATES MAGISTRATE JUDGE